(35)

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P. (S) No. 6476 of 2007

PETITIONER Ramesh Das, S/o Shri David Das, aged about 58 years, resident of Simga, Tahsil-Simga, District Raipur(CG)

Versus

RESPONDENTS

1. State of C.G., Through- Secretary, Department of School Education, (Mantralaya), DKS Bhawan, Raipur(CG)
2. District Education Officer, Raipur(CG)
3. Block Education Officer, Block-Simga, District Raipur(CG)
4. Surendra Tamrakar, resident of Simga, Tahsil-Simga, District Raipur(CG)

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUION OF INDIA

Appearance:

Shri Virendra Sharma, counsel for the petitioner.

Shri Ajay Dwivedi, Panel Lawyer for the State on advance copy.

ORAL ORDER
(13.11.2007)

SUNIL KUMAR SINHA, J.

Heard on admission.

The petitioner, who is working on the post of Assistant Teacher, has been transferred from Primary School, Awarethi to Middle School, Bahgun on administrative grounds.

Learned counsel for the petitioner argues that wife of the petitioner is also working as an Assistant Teacher at Simga and it is the policy of the State government that as far as possible, husband and wife should be kept at the same place. He argues that the husband has been transferred, but no order of transfer has been issued for the wife. Secondly, he argues that the transfer has been affected at the behest of respondent No.4 herein, who is a local politician, therefore, it is a malafide transfer.

I have considered the grounds raised by learned counsel for the petitioner.

So far as placement of husband and wife at one place is concerned, it is a matter to be considered by the department itself. It is not the statutory provision, which can be enforced in a court of law. As far as the transfer being malafide at the behest of

respondent No.4 is concerned, learned counsel for the petitioner could not point out any instance to show that in fact, the transfer was affected at the behest of respondent No.4 and it was a malafide transfer.

On being pointedly asked from learned counsel for the petitioner that since when the petitioner is posted at Awarethi, he submits that the petitioner is posted there since the year 1985.

The transfer is an incidence of service. Nobody working on a transferable post can claim for his posting at a particular place. Who should be posted where is to be seen by the employer which depends upon the administrative exigency as also in public interest. Unless the order of transfer is shown to be vitiated by malafides, extraneous considerations or is shown to be passed against any statutory rule or the Act, the same cannot be interfered with by a Court of law, is the settled view of the Apex Court.

Learned counsel for the petitioner could not point out any such ground of malafide or of extraneous consideration or that the order has been passed against any statutory rule or the Act.

I do not find any reason to interfere with the impugned order of transfer of the petitioner. The petition is not worth admission. The same is dismissed at the motion stage itself.

Sd/-
Sunil Kumar Sinha
Judge

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